

v. Daggett, 429 U.S. 78, 88 n.9 (1976); Wottlin v. Fleming, 136 F.3d 1032, 1036 (5th Cir. 1998). Nor do prisoners have a liberty interest in their security classification. Moody, 429 U.S. at 88 n.9. Furthermore, courts have held that a prisoner's equal protection rights are not violated when he is excluded from rehabilitative programs because of the imposition of a public safety factor or the existence of a detainer lodged against him by the Bureau of Immigration and Customs Enforcement ("BICE").¹ See, e.g., McLean v. Crabtree, 173 F.3d 1176, 1186 (9th Cir. 1999) (holding exclusion of prisoners with detainers from community-based treatment insufficient to establish equal protection violation). Petitioner's remaining objections also lack merit, and do not warrant elaboration. As Petitioner has provided no basis for departure from the analysis in the Magistrate Judge's R&R, his objections are **OVERRULED**.

Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, the Federal Bureau of Prisons and Corrections Corporation of America are **DISMISSED** from this case, the petition is **DISMISSED**, and this civil action is **CLOSED**.

SO ORDERED this 30th day of November, 2010, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE

¹To the extent Petitioner is attempting to challenge BICE's decision to lodge a detainer against him, relief is only available under § 2241 to one "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Of course, an individual does not have to be in BICE's physical custody to satisfy this requirement; rather, the "in custody" requirement is satisfied when an individual is subject to a final order of removal. See Kumarasamy v. Attorney Gen., 453 F.3d 169, 172-73 (3d Cir. 2006) (citing Simmonds v. INS, 326 F.3d 351, 356 (2d Cir. 2003); Aguilera v. Kirkpatrick, 241 F.3d 1286, 1291 (10th Cir. 2001); Mustata v. United States Dep't of Justice, 179 F.3d 1017, 1021 n.4 (6th Cir. 1999); Nakaranurack v. United States, 68 F.3d 290, 293 (9th Cir. 1995)). Nevertheless, BICE's lodging of a detainer against Petitioner, "standing alone, did not cause [Petitioner] to come within the custody of the [BICE]." Orozco v. United States Immigration and Naturalization Serv., 911 F.2d 539, 541 (11th Cir. 1990).